

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
Interconnection and Resale)
Obligations Pertaining to) CC Docket No. 94-54
Commercial Mobile Radio Services)

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REPLY COMMENTS OF AMERITECH

Ameritech submits these Reply Comments in response to the Commission's Second Notice of Proposed Rulemaking ("Second NPRM") in In The Matter of Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54 (rel. April 20, 1995).

I. CMRS-to-CMRS Interconnection

Most parties filing comments agreed with the Commission's tentative conclusion¹ not to impose a general CMRS-to-CMRS interconnection obligation. Ameritech continues to support the Commission's conclusion that it would be premature to impose such an obligation. In today's competitive wireless services environment interconnection arrangements among carrier, are better left to marketplace forces rather than artificial regulatory mechanisms.

Several parties conclude that it would be inappropriate at this point to define the relevant product and geographic market. For example, BellSouth

¹ Second NPRM, ¶¶ 2, 29.

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states that it would be counterproductive to analyze CMRS interconnection now from the viewpoint of market share in a specific geographic and product market because for direct CMRS-to-CMRS interconnection there is no "active market ... given the availability of such connectivity through the existing local exchange carrier ".² AT&T states that "[i]n view of the Commission's findings regarding current and reasonably foreseeable competitive conditions in the CMRS marketplace, there is no need for it to engage in a detailed analysis of the relevant product and geographic market at this time."³ GTE suggests that the relevant product and geographic market should be determined on a case-by-case basis because the marketplace is changing at a rapid rate.⁴ Ameritech agrees that the Commission should examine the relevant product and geographic market on a case-by-case basis, since the marketplace is competitive and still evolving rapidly.

Ameritech also agrees with those that expressed concern over the Commission's suggestion that LEC affiliation with the CMRS provider would be a factor to which the Commission would give strong weight in evaluating interconnection disputes.⁵ For example, Bell Atlantic disagrees strongly with the suggestion that LEC-affiliated CMRS carriers would have unique incentives to deny interconnection. It reasons that LEC-affiliated CMRS carriers, like any other CMRS carrier, would naturally seek the lowest cost way to route traffic. LEC-affiliated CMRS carriers would use CMRS-to-CMRS

² BellSouth Comments, p.3. Air Touch Communications, Inc. stated in its comments that mobile-to-mobile calls constitutes less than 3% of its total mobile minutes of use. Air Touch Comments, p. 5, fn. 6.

³ Second NPRM, ¶ 56.

⁴ GTE Comments, pp. 9-10

interconnection where it is the least costly, so as not to be underpriced by competitors. Bell Atlantic notes that there is no more basis for a presumption against LEC-affiliated CMRS providers than there would be for such a presumption against IXC-affiliated CMRS providers.⁶ The Rural Cellular Association (“RCA”) expresses concern that, while some form of market power analysis might be appropriate in a complaint context, LEC investment should not be a factor that would justify imposition of additional interconnection obligations on a rural cellular carrier⁷. PCS Primeco, a successful bidder for 11 MTA licenses in the A and B band PCS spectrum auctions, states that LEC-affiliated carriers would have the same incentives as others to interconnect with independent CMRS providers in that they would, wherever possible, desire to reduce costs, and that “no sinister motive should be attached to the bare fact of its pedigree”⁸.

The Commission also discussed procedures available for addressing possible interconnection disputes.⁹ Some parties conclude -- as does Ameritech -- that in those rare instances where the market fails and there has been an unreasonable denial of interconnection, the aggrieved party could bring an individual complaint case pursuant to Section 208.¹⁰ Ameritech submits that if the Commission is asked to act as the final arbiter of disputes between parties who cannot ultimately agree, the Commission should

⁵ AT&T Comments p.12.

⁶ Bell Atlantic Comments, p. 6, fn. 5

⁷ RCA Comments, p. 7

⁸ PCS Primeco Comments, pp. 6-7

⁹ Second NPRM, ¶ 40.

¹⁰ See, e.g., ALLTEL Mobile Comments, pp. 2-3, AT&T Comments, p. 15

resolve these situations by applying its existing complaint process on a case-by-case basis.

Other parties raised very specific interconnection issues. American Personal Communications ("APC") urges the Commission to require that the carrier common line charges and local switching charges are not applied when two carriers (e.g., "A" & "B") directly interconnect with each other but another carrier (e.g., "C") can only interconnect to A or B through the LEC. According to APC, only transport charges should apply in that situation¹¹.

As a matter of policy, Commission should not mandate interconnection requirements which would waive charges for some classes of carriers, but not others. Doing so would violate principles of regulatory symmetry without a legitimate policy purpose. The issue raised by APC appears to be beyond the scope of this proceeding and, in any event, is better addressed through negotiations between the parties.

Finally, Comcast proposes that the Commission adopt a novel zero-based "sender-keep-all model" for LEC to CMRS termination. Under Comcast's concept, carriers would not charge each other for terminating one another's traffic¹². Comcast's proposal is clearly beyond the scope of what the Commission intends to address in this phase of the proceeding. Nevertheless, if the Commission chooses to address this issue, Comcast's proposal should be rejected by the Commission because such an arrangement would obviously not approximate cost-based pricing. Comcast's proposal

¹¹ APC Comments, p 4-5

assumes that the costs and traffic flows are the same in both directions. In Ameritech's experience, such is not nearly the case. Comcast's proposal would create a subsidy flow from one carrier to another. Not coincidentally, the balance would certainly be in Comcast's favor as a late incoming service provider in the wireless market.

The Commission should reinforce its tentative conclusion that CMRS-to-CMRS interconnection should not be mandated at this time. It should also be extremely cautious about addressing other extraneous issues related to interconnection, given the competitive and rapidly-evolving CMRS market.

II. Roaming

Most of the parties agree with the Commission's tentative conclusion that it would not be appropriate to mandate roaming agreements between providers at this time. Ameritech agrees that mandating roaming agreements at this time are unnecessary. If basic issues of discrimination were ultimately to arise, the Commission could address the issues at that time. In the meantime, however, the industry should be permitted to continue to work out solutions.

The Commission also invited comment on whether Section 22.901 of its rules, which requires the RBOCs to offer cellular service only through a separate subsidiary, should be interpreted as covering PCS subscribers who roam in cellular service areas. As the Commission has observed, a PCS subscriber using a dual mode hand set would appear as a cellular provider

¹² Comcast Comments, p.2

when the dual mode set is used. Ameritech is concerned that Rule 22.901 not be applied in such a way that a LEC-affiliated PCS provider would be arbitrarily treated differently than non-RBOC affiliated PCS providers and thus could not plan its PCS implementation based upon the resale rules or begin to provide service until its own PCS network was completely built¹³. Such a result would run counter to the Commission's oft-expressed interest in regulatory symmetry and ensuring timely delivery of new services to the public.

III. Resale

The Commission also invited comment on whether resale requirements should be applied to all CMRS providers, and, if so, for what period of time.¹⁴ Ameritech continues to support the Commission's tentative conclusion that all CMRS providers should be subject to the same obligations for resale as cellular providers, unless there is a showing that permitting resale would not be "technically feasible or economically reasonable for a specific class of CMRS providers"¹⁵ None of the parties has made such a showing, and all CMRS providers should be subject to the resale requirements.

The parties that supported resale recommended various time periods during which the resale requirement would apply, ranging from 18 months to ten years.¹⁶ Ameritech continues to support a five-year period during

¹³ (Bell South Comments, pp. 5-6; GTE Comments, pp. 14-15).

¹⁴ Second NPRM, ¶ 83, 90.

¹⁵ Second NPRM, ¶ 83.

¹⁶ Sprint Comments p. 9-19

which CMRS resale should be mandatory, because it avoids the obvious problems of having to define, likely through wasteful litigation, what “operational” means, and because it matches the Commissioner’s chosen period for initial PCS buildout¹⁷ period of five years.

IV. Reseller Switch Proposal

The Commission also requested comments on its tentative rejection of the reseller switch proposal that would require CMRS interconnection with a reseller’s switch at a point between the mobile telephone switching office (“MTSO”) and the facilities of a LEC or IXC.¹⁸ Ameritech agrees with those parties urging the Commission to reject the proposal, notes that this is an area in which the forces of the marketplace should be permitted to continue to function effectively. No party has provided any evidence to the contrary.

IV. Summary

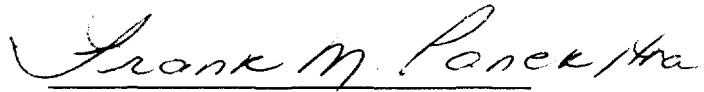
For the reasons set forth above, Ameritech urges the Commission to: (1) continue to permit CMRS interconnection to develop through private negotiations and arrangements; and not adopt guidelines prematurely; (2) not take any regulatory action with respect to roaming services now since there is not any evidence of discrimination and the industry should be permitted to work towards solutions; (3) impose resale requirements on all CMRS providers equally for a period of five years; and (4) reject the reseller’s switch proposal.

¹⁷ 30 MHz licenses must serve 33% of the population in its service area by the end of five years; a 10 MHz license must serve 25%. See 24 C.F.R. § 24.203.

¹⁸ Second NPRM, ¶¶ 78-81.

Respectfully submitted,

AMERITECH CORPORATION

A handwritten signature in cursive script, reading "Frank M. Panek". The signature is written in dark ink and is positioned above a horizontal line.

Frank Michael Panek

Nancy H. Wittebort

Attorneys for Ameritech
Room 4H84
2000 W. Ameritech Center Dr.
Hoffman Estates, IL 60196-1025

July 14, 1995

CERTIFICATE OF SERVICE

I, Cathy Hutchinson do hereby certify that a copy of the foregoing Reply of Ameritech has been served, all parties of record listed below by first class mail, postage prepaid, on this 14th day of July 1995.

By: Cathy Hutchinson
Cathy Hutchinson

SERVICE LIST

Mr. Mark C. Rosenblum
Mr. Robert J. McKee
Mr. Albert M. Lewis
Attorneys for AT&T Corp
Room 2255F2
295 North Maple Avenue
Basking Ridge, NJ 07920-1002

Mr. Scott K. Morris
Ms. Cathleen A. Massey
Attorneys for AT&T Corp.
1150 Connecticut Avenue, N.W.
4th Floor
Washington, DC 20036

Mr. William B. Barfield
Mr. Jim O'Llewellyn
Attorneys for BellSouth Corporation
BellSouth Telecommunications, Inc.
BellSouth Cellular Corp
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610

Mr. Charles P. Featherstrum
Mr. David G. Richards
Attorneys for BellSouth Corporation
BellSouth Telecommunications, Inc.
BellSouth Cellular Corp
1133 21st Street, N.W., Suite 900
Washington, DC 20036

Mr. John T. Scott, III
Attorney for Bell Atlantic Mobile Systems, Inc.
Crowell & Moring
10001 Pennsylvania Avenue, N.W.
Washington, DC 20004

Mr. Michael F. Altschul
Vice President, General Counsel
Randall S. Coleman
Andrea D. Williams
Attorneys for
Cellular Telecommunications Industry Assn.
1250 Connecticut Avenue, N.W.
Washington, DC 20036

Mr. Philip L. Verver
Ms. Jennifer A. Donaldson
Attorneys for
Cellular Telecommunications Industry Assn.
Willkie Farr & Gallagher
1155 21st Street, N.W., Suite 600
Three Lafayette Centre
Washington, DC 20036-3384

Leonard J. Kennedy
Laura H. Phillips
Peter A. Batacan
Attorneys for Comcase Cellular Corp.
Dow, Lohnes & Albertson
1255 23rd Street, N.W.
Suite 500
Washington, DC 20037

Lewis J. Paper
David B. Jeppsen
Attorneys for Cellular Service, Inc., and
ComTech Mobile Telephone Company
Keck, Mahn & Cate
1201 New York Avenue, N.W.
Washington, DC 20005

Robert S. Foosaner
Senior Vice President - Government Affairs
Lawrence R. Krevor
Laura L. Holloway
Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, DC 20006